

House File 2331 - Introduced

HOUSE FILE 2331
BY COMMITTEE ON JUDICIARY

(SUCCESSOR TO HF 2037)

A BILL FOR

1 An Act relating to the issuance of a search warrant to
2 authorize the placement, tracking, and monitoring of a
3 global positioning device.
4 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:

1 Section 1. Section 808.1, subsection 1, Code 2011, is
2 amended to read as follows:

3 1. "*Search warrant*" means an order in writing pursuant
4 ~~to the requirements of section 808.3~~, in the name of the
5 state, signed by a magistrate, and directed to a peace officer
6 commanding the officer to search a person, premises, or thing,
7 issued pursuant to the requirements of section 808.3, or to
8 place, track, or monitor a global positioning device, issued
9 pursuant to the requirements of section 808.3A.

10 Sec. 2. NEW SECTION. 808.3A Application for search warrant
11 — global positioning device.

12 1. As used in this section, "*peace officer*" means the same
13 as defined in section 801.4, subsection 11, paragraph "a", "b",
14 or "c".

15 2. a. A peace officer may make application to a judicial
16 officer for the issuance of a search warrant to authorize the
17 placement, tracking, or monitoring of a global positioning
18 device, supported by a peace officer's oath or affirmation,
19 which includes facts, information, and circumstances tending to
20 establish sufficient grounds for granting the peace officer's
21 application, and probable cause for believing the grounds
22 exist. Upon a finding of probable cause to issue such a
23 warrant, the judicial officer shall issue a warrant, signed
24 by the judicial officer with the judicial officer's name of
25 office, directed to any peace officer, commanding that the
26 peace officer place, track, or monitor the global positioning
27 device.

28 b. In addition to seeking a warrant to place, track, or
29 monitor a global positioning device under paragraph "a", a
30 peace officer may file a special application, supported by oath
31 or affirmation, seeking express authority from the judicial
32 officer to physically and surreptitiously enter a residence,
33 garage, private business, or other occupied structure to place
34 an authorized global positioning device in such structure.
35 The special application shall include facts and circumstances

1 expressing that the item to which the device is to be attached
2 is in a residence, garage, private business, or other occupied
3 structure and no other reasonable opportunity exists to attach
4 the device to the item unless by physically and surreptitiously
5 entering such structure. Upon a showing of probable cause,
6 the court may enter a specialized finding that specific facts
7 and circumstances exist in such a way that no other reasonable
8 opportunity exists to attach the device to the item unless
9 by physically and surreptitiously entering such structure to
10 attach the device. Any specialized findings shall be made part
11 of the warrant issued.

12 3. Notwithstanding section 808.13, all information filed
13 with the court for the purpose of securing a warrant under
14 this section, including but not limited to the application,
15 affidavits, and the warrant issued, shall be sealed for a
16 period of five years. Custody of all information filed with
17 the court including the application, affidavits, and warrant
18 shall be in accordance with the orders of the court. The
19 application, affidavits, warrant, and any other information
20 relating to the application shall not be disclosed unless upon
21 a showing of good cause before the court. All the information
22 filed with the court including the application, the affidavits,
23 and the warrant issued shall be destroyed after five years
24 unless it is necessary to keep such information due to an
25 ongoing legal process or by court order. All information filed
26 with the court including the application, the affidavits, and
27 the warrant shall be destroyed after a period of ten years.

28 4. A warrant issued pursuant to subsection 2 shall not
29 authorize the placement, tracking, or monitoring of a global
30 positioning device for a period that is longer than necessary
31 to achieve the objective of the authorized warrant, or thirty
32 days, whichever period is shorter. The court may grant an
33 extension of the warrant, upon application for an extension
34 and the court entering findings in accordance with subsection
35 2. The period of the extension shall not be longer than the

1 authorizing court deems necessary to achieve the objective
 2 for which the warrant was issued but in no event shall the
 3 extension exceed thirty days. All warrants issued under
 4 subsection 2 and any extension shall contain a provision
 5 that specifies that the authorization to place, track, or
 6 monitor a global positioning device shall be executed as soon
 7 as practicable and shall terminate upon attainment of the
 8 authorized objective, or thirty days, whichever is earlier.
 9 The thirty-day period specified in this subsection for a
 10 warrant issued under this section, including an extension of a
 11 warrant, shall commence on the date specified in the warrant
 12 that authorizes the placement of the global positioning device.
 13 5. Notwithstanding section 808.8, subsection 1, a peace
 14 officer shall not be required to leave a copy of the warrant
 15 issued pursuant to this section.

16 EXPLANATION

17 This bill relates to the issuance of a search warrant
 18 authorizing the use of a global positioning device.

19 The bill authorizes a peace officer to make an application
 20 to a judicial officer for the issuance of a search warrant to
 21 authorize the placement, tracking, or monitoring of a global
 22 positioning device, if the application is supported by the
 23 peace officer's oath and affirmation, including other facts and
 24 circumstances that establish sufficient grounds for granting
 25 the peace officer's application, and probable cause for
 26 believing the grounds exist. Upon a finding of probable cause
 27 to issue a search warrant, the judicial officer shall issue the
 28 search warrant, commanding that the peace officer place, track,
 29 or monitor the global positioning device.

30 Current law only allows a special state agent, defined in
 31 Code section 808B.1 as a peace officer of the department of
 32 public safety, to make an application to a judicial officer for
 33 the issuance of a search warrant for the placement, tracking,
 34 or monitoring of a global positioning device in Code section
 35 808B.5(12).

1 The bill further provides that in addition to seeking a
2 search warrant authorizing the use of a global positioning
3 device, a peace officer may file a special application,
4 supported by oath or affirmation, seeking authority from the
5 court to physically and surreptitiously enter a residence,
6 garage, private business, or other occupied structure to place
7 the global positioning device because no other reasonable
8 opportunity exists to attach such device. Upon a showing of
9 probable cause, the court may enter a specialized finding that
10 specific facts and circumstances exist in such a way that
11 no other reasonable opportunity exists to attach the global
12 positioning device unless by physically and surreptitiously
13 entering a residence, garage, private business, or other
14 occupied structure to attach such a device.

15 The bill requires that all the information filed with the
16 court for the purpose of securing a warrant for the placement
17 of a global positioning device shall be sealed for a period of
18 five years and subsequently destroyed unless it is necessary
19 to keep such information due to an ongoing legal process or
20 court order. The application and information relating to such
21 a warrant may be disclosed upon a showing of good cause. The
22 bill specifies that all the information filed with the court
23 including the application shall be destroyed after a period of
24 10 years.

25 A warrant issued under the bill shall not be for a period
26 that is longer than necessary to achieve the objective of
27 the warrant, or 30 days, whichever is shorter. A warrant
28 issued under the bill may be extended in accordance with the
29 same requirements to obtain a warrant in the first instance.
30 The period of the extension shall also be no longer than is
31 necessary to achieve the objective of the warrant, or 30 days,
32 whichever is shorter.

33 The bill only authorizes a peace officer who is a sheriff
34 or deputy sheriff, marshal or peace officer of a city, or a
35 peace officer member of the department of public safety, to

H.F. 2331

1 seek authorization for a warrant to place, track, or monitor a
2 global positioning device.